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NEW APPLICATION



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2001 DEC -4 A 10: 21

December 3, 2001

AZ CORP COMMISSION
DOCUMENT CONTROL

VIA OVERNIGHT MAIL

Arizona Corporation Commission
Docket Control – Utilities Division
1200 West Washington
Phoenix, AZ 85007-2996

Re: Application for Exemption from A.R.S. §40-285 and Waiver of the Public
Utility Holding Companies and Affiliated Interests Rules
Docket Nos.

T-03401A-01-0952
T-02584A-01-0952
T-03188A-01-0952

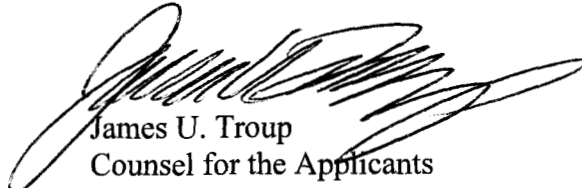
Dear Sir or Madam:

Transmitted herewith on behalf of VarTec Telecom, Inc., Excel Telecommunications, Inc., eMeritus Communications, Inc., and Long Distance Wholesale Club, Inc. (collectively, the "Applicants"), are an original and ten (10) copies of their Application for Exemption from A.R.S. § 40-285 and Waiver of the Public Utility Holding Companies and Affiliated Interests Rules.

Acknowledgement and date of receipt of this filing is respectfully requested. Please date and file stamp the extra copy of this filing (attached) and return it in the prepaid, FedEx envelope we have enclosed for this purpose.

Should you have any questions regarding the transaction or the enclosed filing, please contact the undersigned.

Respectfully submitted,


James U. Troup
Counsel for the Applicants

Enclosures

BEFORE THE ARIZONA CORPORATION COMMISSION

MARK SPITZER
COMMISSIONER
JIM IRVIN
COMMISSIONER
WILLIAM A. MUNDELL
CHAIRMAN

IN THE MATTER OF THE APPLICATION)	Docket Nos.	T-03401A-01-0876
OF VARTEC TELECOM, INC., EXCEL)		T-02584A-01-0876
TELECOMMUNICATIONS, INC.,)		T-03188A-01-0876
EMERITUS COMMUNICATIONS, INC.,)		
AND LONG DISTANCE WHOLESALE)		
CLUB, INC. FOR EXEMPTION FROM)		
A.R.S. § 40-285 AND WAIVER OF THE)		
PUBLIC UTILITY HOLDING COMPANIES)		
AND AFFILIATED INTERESTS RULES)		

**APPLICATION FOR EXEMPTION FROM A.R.S. §40-285
AND WAIVER OF THE PUBLIC UTILITY HOLDING COMPANIES
AND AFFILIATED INTERESTS RULES**

VarTec Telecom, Inc. ("VarTec"), Excel Telecommunications, Inc. ("Excel"), eMeritus Communications, Inc. f/k/a Teleglobe Business Solutions, Inc. f/k/a Telco Holdings, Inc. d/b/a Dial & Save Corp. ("eMeritus"), and Long Distance Wholesale Club, Inc. ("LDWC") (collectively, the Applicants") hereby apply, pursuant to A.R.S. § 40-202.M, for a permanent exemption from A.R.S. §40-285 and, pursuant to A.A.C. R14-2-806, for a permanent general waiver of the Commission's Public Utility Holding Companies and Affiliated Interests Rules. A.A.C. R14-2-801 to R14-2-806 (the "Rules").¹

¹ By seeking this exemption and waiver, the Applicants do not waive any federal constitutional arguments concerning the applicability of A.R.S. §40-285 and the Rules to particular transactions or operations.

INTRODUCTION

On November 1, 2001, the Applicants filed with the Commission their Joint Notice of Intent to Organize a Public Utility Holding Company and Application for Approval of Transfers of Control (the "Notice of Intent and Application for Approval").

The Notice of Intent and Application for Approval requested the Commission's approval of a transaction pursuant to which VarTec and VarTec Telecom Holding Company ("VarTec Holding") will directly or indirectly acquire all the capital stock of Excel Telecommunications (Canada) Inc. ("Excel Canada") and will acquire control of affiliated telecommunications companies Excel, eMeritus, and LDWC through the acquisition of all of the capital stock of their parent company, Excel Communications, Inc. Applicants believe that this transaction may subject them to A.R.S. §40-285 which requires a public service corporation to obtain the Commission's authorization to "merge such system or any part thereof with any other public service corporation". Section 40-285 also requires prior Commission authorization before a public service corporation may mortgage or encumber its system or any franchise or permit or any right thereunder. In order to consummate the transaction described in the Notice of Intent and Application for Approval, VarTec, a public service corporation that has been granted a certificate of convenience and necessity by this Commission, will guarantee the promissory notes that will be issued by VarTec Holding. However, in order to encourage competition, A.R.S. § 40-202.M authorizes the Commission to exempt "any competitive service" from the application of A.R.S. §40-285.

Based on their operational revenues over the past year, the Applicants believe they may now (or soon will) be considered Class A utilities and, therefore, also subject to the Rules. The Rules regulate the formation of public utility holding companies and certain transactions and

activities between public service corporations and their affiliated interests. According to the Commission in promulgating the Rules, the Rules are intended to: (i) prevent the commingling of utility and non-utility funds; (ii) prohibit cross-subsidization of non-utility activities by utility ratepayers; (iii) prevent negative impact of non-utility activities on a utility's financial credit; and (iv) ensure that the utility and its affiliates provide the Commission with the information necessary to "carry out its regulatory responsibilities." See Decision No. 56618.

The Applicants respectfully submit that in light of the stated purposes they should be wholly exempt from the requirements of A.R.S. §40-285 and the Rules. As explained below, the Applicants operate in a highly competitive environment that, in conjunction with the Commission's existing regulatory measures, already effectively protects customers from cross-subsidization or other activities that could detrimentally affect service to customers. Moreover, because the Applicants' Arizona operations represent such a small percentage of their total revenue and investment, application of the Rules to the Applicants would be unreasonably costly and burdensome. Finally, an exemption from A.R.S. §40-285 and a waiver of the Rules will in no way diminish the Commission's ability and authority to effectively regulate the Applicants as appropriate in a competitive market. Therefore, the Applicants respectfully request that the Commission grant them an exemption from A.R.S. §40-285 and permanent general waiver of the Rules.

BACKGROUND

A. The Teleglobe Companies

Teleglobe Holdings through its ownership of intermediary companies controls 100% of the equity of Excel, eMeritus, and LDWC. Teleglobe Holdings does not directly hold any authorizations to provide service in Arizona. Teleglobe Holdings, eMeritus, and LDWC are

each Delaware corporations, and Excel is a Texas corporation. Exhibit A, attached hereto, illustrates the corporate relationship of these companies.

Teleglobe Holdings is a wholly owned subsidiary of Teleglobe Inc. The principal office of Teleglobe Inc. and Teleglobe Holdings is located at 1000, rue de La Gauchetière Ouest, Suite 3700, Montreal, Quebec H3B 4Y7. Their electronic mail address, fax number and telephone number are:

Electronic mail: www.bce.ca

Fax: (514) 391-8389

Telephone: (514) 397-7000

Teleglobe Inc. is a Canadian corporation and a subsidiary of BCE Inc., a Canadian corporation traded on the New York, Toronto and Swiss stock exchanges. Having issued non-traded debt securities to the public in both the U.S. and Canada, Teleglobe Inc. is a registrant with the Securities and Exchange Commission and the Canadian securities regulatory authorities. Teleglobe Inc. is a holding company with interests in two principal business segments grouped under the Teleglobe Communications group and the Excel Communications group. The Teleglobe Communications group delivers advanced broadband applications to customers in more than 100 countries. Through operating subsidiaries of Teleglobe Inc. worldwide, the Teleglobe Communications group has a significant global market presence in broadband applications, Internet connectivity, value-added international telephony and long distance services. However, because its core target market consists of international carrier customers, the intrastate operations of the Teleglobe Communications group have not been significant.

On November 14, 1995, this Commission authorized eMeritus, formerly operating under the names of Teleglobe Business Solutions, Inc. and Telco Holdings, Inc. d/b/a Dial & Save, to

provide intrastate interexchange telecommunications services throughout Arizona.² eMeritus is headquartered at 8750 North Central Expressway, Suite 2000, Dallas, TX 75231. Its electronic mail address, fax number and telephone number are:

Electronic mail: regulatoryaffairs@excel.com

Fax: (214) 863-8918

Telephone: (214) 863-8000 or 1-800-783-2909

eMeritus is authorized to provide interexchange services in 48 states and competitive local exchange services in 27 states. eMeritus offers a variety of voice services, primarily targeting corporate customers.

Excel's headquarters are located at 8750 N. Central Expressway, Suite 2000, Dallas, Texas 75231. Its electronic mail address, fax number and telephone number are:

Electronic mail: regulatoryaffairs@excel.com

Fax: (214) 863-8918

Telephone: (214) 863-8000 or 1-800-783-2909

Excel is also authorized by this Commission to provide intrastate interexchange telecommunications services throughout Arizona.³ Excel owns and operates a nationwide, facilities-based telecommunications network. It is authorized to provide interexchange services in all 50 states and competitive local exchange services in 37 states.

LDWC is headquartered at 8750 N. Central Expressway, Suite 2000, Dallas, Texas 75231. Its electronic mail address, fax number and telephone number are:

Electronic mail: regulatoryaffairs@excel.com

Fax: (214) 863-8918

² See Docket No. U-3188-96-302.

³ See Docket No. U-2584-91-016.

Telephone: (214) 863-8000 or 1-800-783-2909

On July 2, 1997, LDWC was also authorized by this Commission to provide intrastate interexchange telecommunications services throughout Arizona.⁴ LDWC primarily provides dial-around (1010-XXX) interexchange service. It is authorized to provide intrastate interexchange services in 47 states.

B. The VarTec Companies

Through the consummation of the transaction described herein, VarTec will organize a new public utility holding company pursuant to A.A.C. § R14-2-803 named VarTec Holding. VarTec Holding is a wholly owned subsidiary of VarTec. VarTec Holding does not currently hold, either directly or indirectly, any authorizations to provide service in Arizona. VarTec is a Texas corporation and VarTec Holding is a Delaware corporation. Through a transaction described more fully below, the proposed transfers of control will result in a change in the ultimate parent company of Excel, eMeritus and LDWC, which will become indirect wholly owned subsidiaries of VarTec Holding and VarTec.

The address of the principal office of VarTec and VarTec Holding and the address of their management is 1600 Viceroy Drive, Dallas, Texas 75235. Their electronic mail address, fax number and telephone number are:

Electronic mail: www.vartec.com/contactus/contactus.shtml

Fax: (214) 424-1510

Telephone: (214) 424-1000

⁴ See Docket No. U-3164-96-240.

This Commission has authorized VarTec Telecom, Inc. to provide intrastate interexchange telecommunications services throughout Arizona.⁵ It is authorized to provide intrastate interexchange services in 49 states and competitive local exchange services in 7 states.

CommuniGroup, Inc. owns 80% of the equity of VarTec Telecom, Inc. Telephone Electronics Corporation owns 100% of the equity of CommuniGroup, Inc. Joseph D. Fail owns 86% of the equity of Telephone Electronics Corporation.

The following table contains the name, address, citizenship and principal business of the entities that directly or indirectly own at least 10 percent of VarTec:

Name	Address	Citizenship	Principal Business	Equity Share
Joseph D. Fail	P.O. Box 925 27 South 2 nd Street Bay Springs, MS 39422	U.S.	President and Chairman of the Board of Telephone Electronics Corporation	86% of Telephone Electronics Corporation
Telephone Electronics Corporation	P.O. Box 22923 Jackson, MS 39225	U.S.	Holding company for telecommunications carriers	100 % of CommuniGroup, Inc.
CommuniGroup , Inc.	700 South West Street Jackson, MS 39201	U.S.	Long distance telecommunications carrier	80% of VarTec Telecom, Inc.
A. Joe Mitchell, Jr.	1600 Viceroy Drive Dallas, Texas 75235	U.S.	President of VarTec Telecom, Inc.	10% of VarTec Telecom, Inc.
VarTec Telecom, Inc.	1600 Viceroy Drive Dallas, Texas 75235	U.S.	Local and long distance telecommunications carrier	100% of VarTec Telecom Holding Company

Attached hereto as Exhibit B is an organizational chart for VarTec Telecom, Inc.

⁵ Docket No. T-03401A-97-0382, Decision No. 62238, January 12, 2000.

C. Description of the Transaction

Teleglobe Inc. and VarTec have determined that VarTec, Excel, eMeritus and LDWC can realize significant economic and marketing efficiencies, and, ultimately, strengthen their respective businesses by establishing Excel, eMeritus and LDWC as wholly owned subsidiaries of VarTec Holding. This is the primary business purpose for establishing VarTec Holding. Currently, Teleglobe Holdings owns all of the authorized capital stock of Excel Communications, Inc., and Excel Communications, Inc. through its ownership of intermediary companies controls 100% of the equity of Excel, eMeritus, and LDWC. VarTec, VarTec Holding, Teleglobe Inc., Teleglobe Holdings, Excel Communications, Inc., Excel Telecommunications (Canada) Inc., and BCE Inc. executed a Stock Purchase Agreement dated August 26, 2001. Pursuant to that agreement, VarTec Holding has agreed to acquire from Teleglobe Holdings all of the authorized capital stock of Excel Communications, Inc. VarTec Holding has also agreed to acquire from Teleglobe Inc. all of the authorized capital stock of Excel Telecommunications (Canada) Inc.

The purchase price is payable by delivery of (1) promissory notes of VarTec Holding in the aggregate original principal amount equal to 90% of the purchase price less \$5 million and (2) a warrant for the purchase of that number of shares of VarTec's common stock equal to (i) 1 percent (before giving effect to the exercise of the warrant) of VarTec's issued and outstanding shares of common stock if VarTec has not effected the purchase from Telephone Electronics Corporation of all of VarTec's common stock held by Telephone Electronics Corporation (or if VarTec's common stock held by Telephone Electronics Corporation remains outstanding) or (ii) 5 percent of VarTec's issued and outstanding common stock if such transaction with Telephone Electronics Corporation is consummated.

VarTec Holding will pay for the acquisition by issuing promissory notes. It will issue notes in an aggregate principal amount up to \$410 million. Up to \$10 million of this aggregate principal amount will be used to acquire all of the capital stock of Excel Telecommunications (Canada) Inc. Up to \$400 million of this aggregate principal amount will be used to acquire all of the capital stock of Excel Communications, Inc. The capital structures of the public utilities, Excel, eMeritus, and LDWC, their allocation of taxes, their cost of service and their cost of capital will not be affected by this proposed method of financing. Excel, eMeritus, and LDWC are resellers, have not constructed their own public utility plant in Arizona, and do not plan to construct new public utility plant in Arizona.

The Applicants participate in the highly competitive telecommunications market in Arizona. They compete directly with numerous competitive interexchange carriers, such as AT&T and MCI WORLDCOM. As competitive carriers, the Applicants do not have a guaranteed revenue base, a guaranteed rate of return on their investment or a guaranteed recovery of their operational expenses.

BASES FOR EXEMPTION AND WAIVER

I. THE EXISTING COMPETITIVE MARKET PRECLUDES CROSS-SUBSIDIZING OR COMMINGLING THAT WOULD HARM ARIZONA CONSUMERS

Under A.R.S. §40-285 and the Rules, the Applicants are required to supply the Commission with voluminous information concerning corporate diversification plans, transactions between regulated and unregulated affiliates, and assessments of affiliate corporate structure including these transfers. Given the competitive nature of the interexchange telecommunications market in Arizona, the application of these requirements to the Applicants is both unnecessary and unreasonably burdensome, particularly in the instant scenario.

Because of market forces in effect in Arizona, the Applicants have no incentive (or ability) to charge unduly high or above-market prices that could be used to fund or subsidize unregulated affiliates or to commingle utility and non-utility funds in a manner that is harmful to Arizona consumers. Applicants' contractual or affiliate relationships play no discernable role in the pricing of telecommunications services to customers. Rather, prices are set by competition. First, the competitive rates of dominant carriers such as AT&T, Sprint, and MCI WORLDCOM set a limit on the rates Applicants can offer. Second, with every product pricing change initiated by the Applicants, particularly in the business service area, competitors inevitably introduce new service packages or reprice their services in a manner believed to be even more attractive to the consumer. Accordingly, traditional indices, such as achievement of an established revenue requirement, play no role in determining the Applicants' prices. Arizona consumers are protected from abusive pricing practices through the competitive market. Applying A.R.S. §40-285 and the Rules to Applicants would only result in costly and burdensome micro-regulation with no concomitant additional protection for Arizona consumers.

II. APPLYING A.R.S. §40-285 AND THE RULES TO THE APPLICANTS WOULD BE UNNECESSARILY COSTLY AND BURDENSOME

On their face, A.R.S. §40-285 and the Rules require prior Commission review, evaluation, and approval of public utility non-regulated business activities. These measures are imposed, presumably, to deter any potentially negative impact on Arizona ratepayers resulting from such activities. Applicants acknowledges that such regulations are quite appropriate in the context of utilities whose revenue in large part results from the provision of intrastate monopoly utility services. Monopoly service revenues might improperly capitalize the non-regulated affiliate business activities of such utilities, with utility ratepayers both potentially bearing the risk of failure and paying higher rates than necessary for monopoly service. Such activities

would unjustly burden consumers of these utility services. Under such circumstances, Commission actions taken to monitor non-regulated utility activities are prudent and clearly serve to further the public interest.

However, in instances where a public utility engages in a competitive market, holding non-monopoly power, with its revenues from and investment in Arizona comprising only a small portion of its total corporate family revenues and investment, application of A.R.S. §40-285 and the Rules is unnecessary. The Applicants' Arizona revenues and capital investment comprise a small percentage of the Applicants' total corporate revenues and capital investment. The vast majority of affiliate transactions are national or pertain exclusively to interests in other states, and, therefore, have little, if any, impact on Arizona. Without a waiver, the Applicants would come under the purview of Rule 803, requiring notice to the Commission every time one of the Applicants undertook an activity that falls within Rule 801(5)'s broad definition of "reorganize." That requirement would create an enormous burden on the Applicants. Moreover, under Rule 805, the Applicants would have to submit reams of information wholly irrelevant to Arizona on an annual basis.

The risk to Arizona consumers from the Applicants' affiliate interests or transactions is remote at best and compliance with A.R.S. §40-285 and the Rules would be unduly burdensome. No public purpose would be served by having the Applicants provide documentation concerning every affiliate transaction encompassed by the Rules when those transactions have no bearing on Arizona. Such a requirement simply constitutes micro-regulation and would cause needless expense and unnecessary administrative burdens for the Applicants and the Corporation Commission. Indeed, application of A.R.S. §40-285 and the Rules is particularly unnecessary

and unreasonable given the Commission's other existing regulatory authority over competitive telecommunications providers such as the Applicants.

RELIEF REQUESTED

A. Exemption and Waiver

The Applicants believe that a complete exemption from A.R.S. §40-285 and waiver of the Rules is appropriate. The Commission has had several years to determine whether the partial waivers granted to other competitive interexchange telecommunications companies, such as AT&T (Decision No. 58258) or MCI (Decision No. 58257) have provided any significant regulatory benefits. If not, a complete exemption from A.R.S. §40-285 and waiver of the Rules would be appropriate here because the burden of partial compliance outweighs the lack of public benefit.

B. Expedited Treatment of Application and Stay of the Rules

The Applicants request expedited consideration of this Application so that they need not devote resources to preparing for a hearing that may be unnecessary. The Applicants also request that the Rules be stayed during the period that is necessary for the Commission to rule on this application and that the Commission's order on this application be issued *nunc pro tunc*, if necessary, retroactive to the date on which the Rules became applicable to the Applicants.

CONCLUSION

For the foregoing reasons, the Applicants respectfully request that the Commission grant a permanent exemption from A.R.S. §40-285 and general waiver of the Rules.

Respectfully submitted,

VARTEC TELECOM, INC., EXCEL
TELECOMMUNICATIONS, INC., EMERITUS
COMMUNICATIONS, INC. and LONG
DISTANCE WHOLESALE CLUB, INC.

By: 

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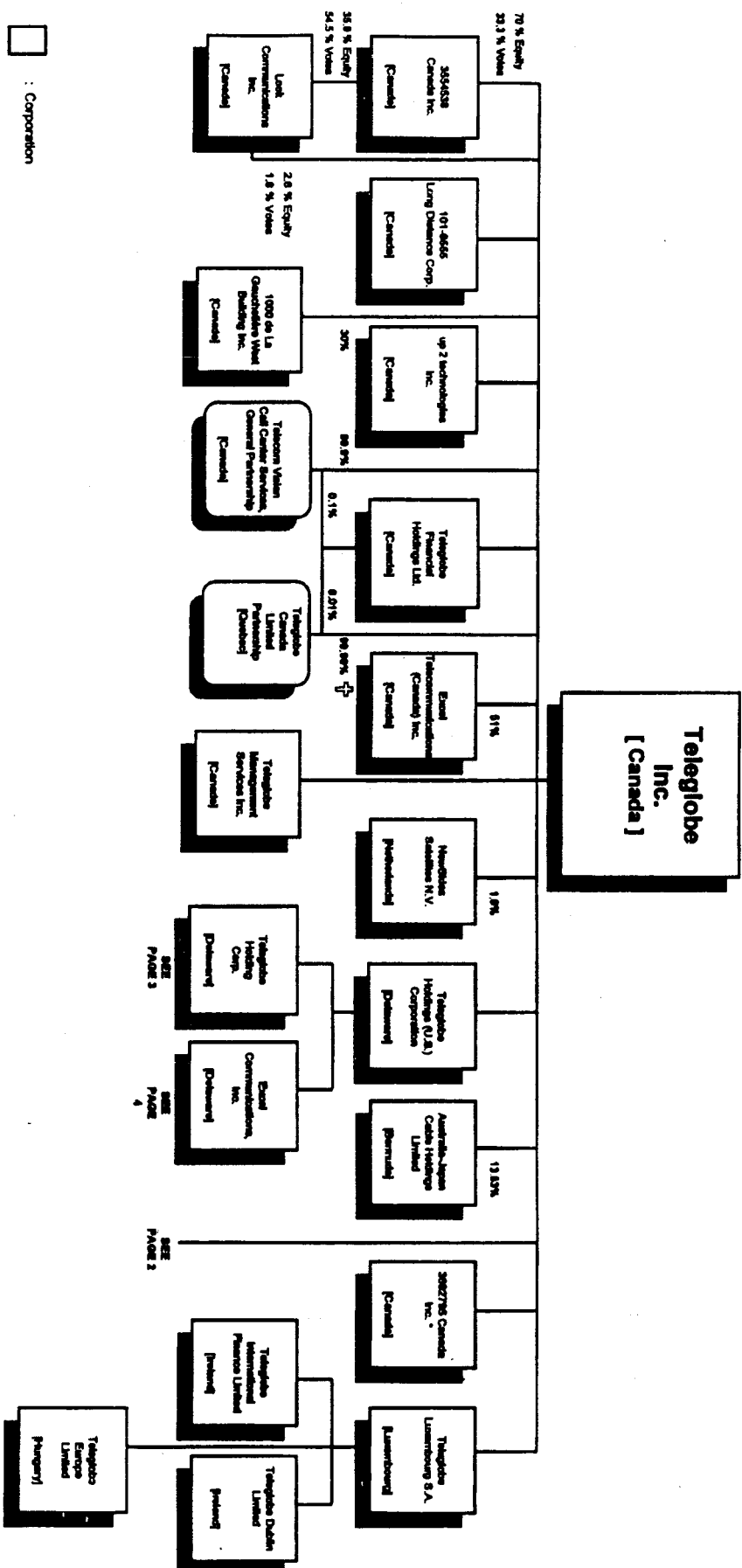
December 3, 2001

ORGANIZATIONAL CHART OF
TELEGLOBE INC.

Exhibit A

TELEGRAPH

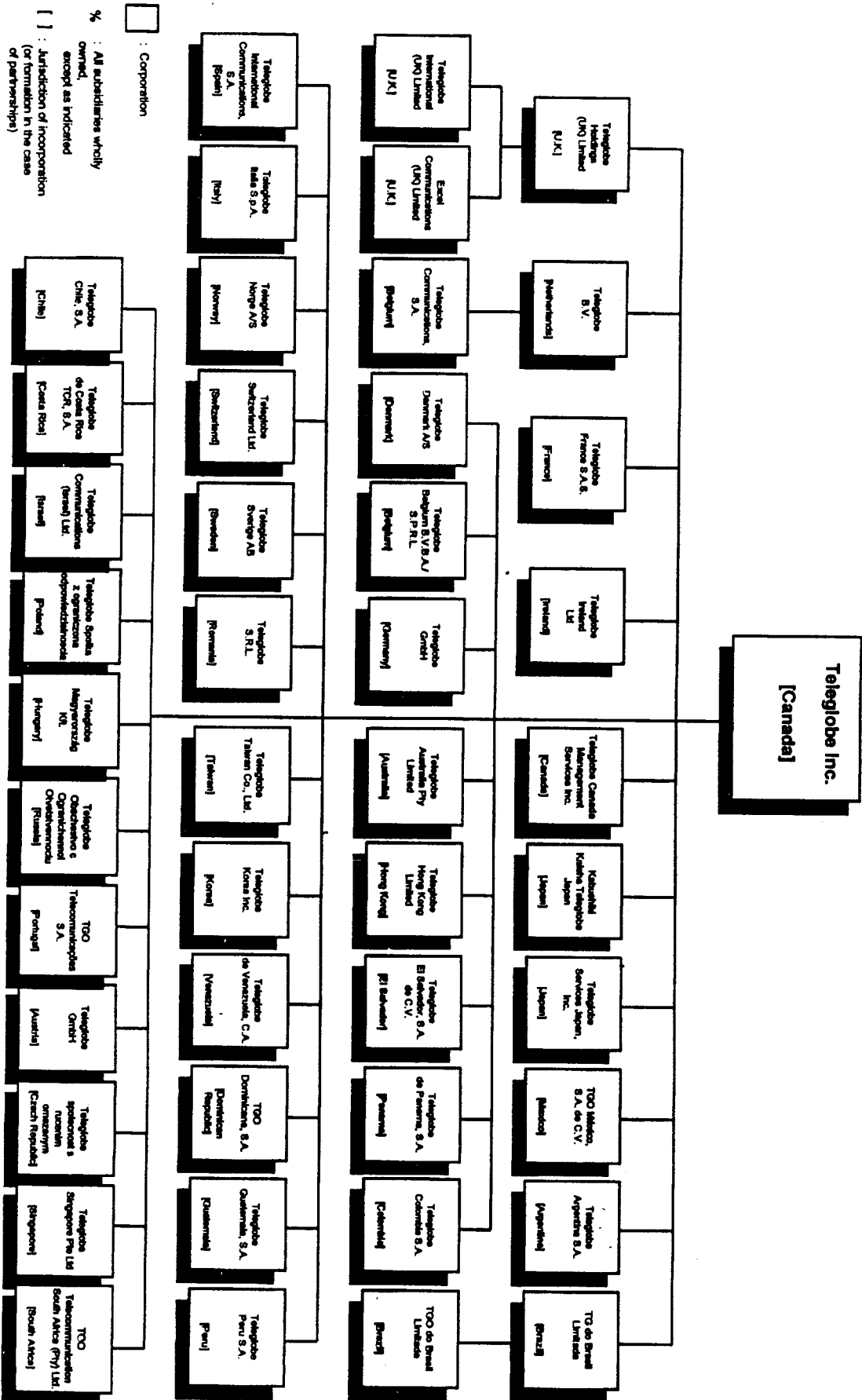
<input checked="" type="checkbox"/>	: Corporation
<input type="checkbox"/>	: Partnership
<input type="checkbox"/>	: General Partner
+	: All subsidiaries wholly owned, except as indicated
%	: Preferred shares owned by Telegloba Luxembourg S.A.
*	: Jurisdiction of incorporation (or formation in the case of partnerships)
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CORPORATE STRUCTURE AS AT JUNE 30, 2001



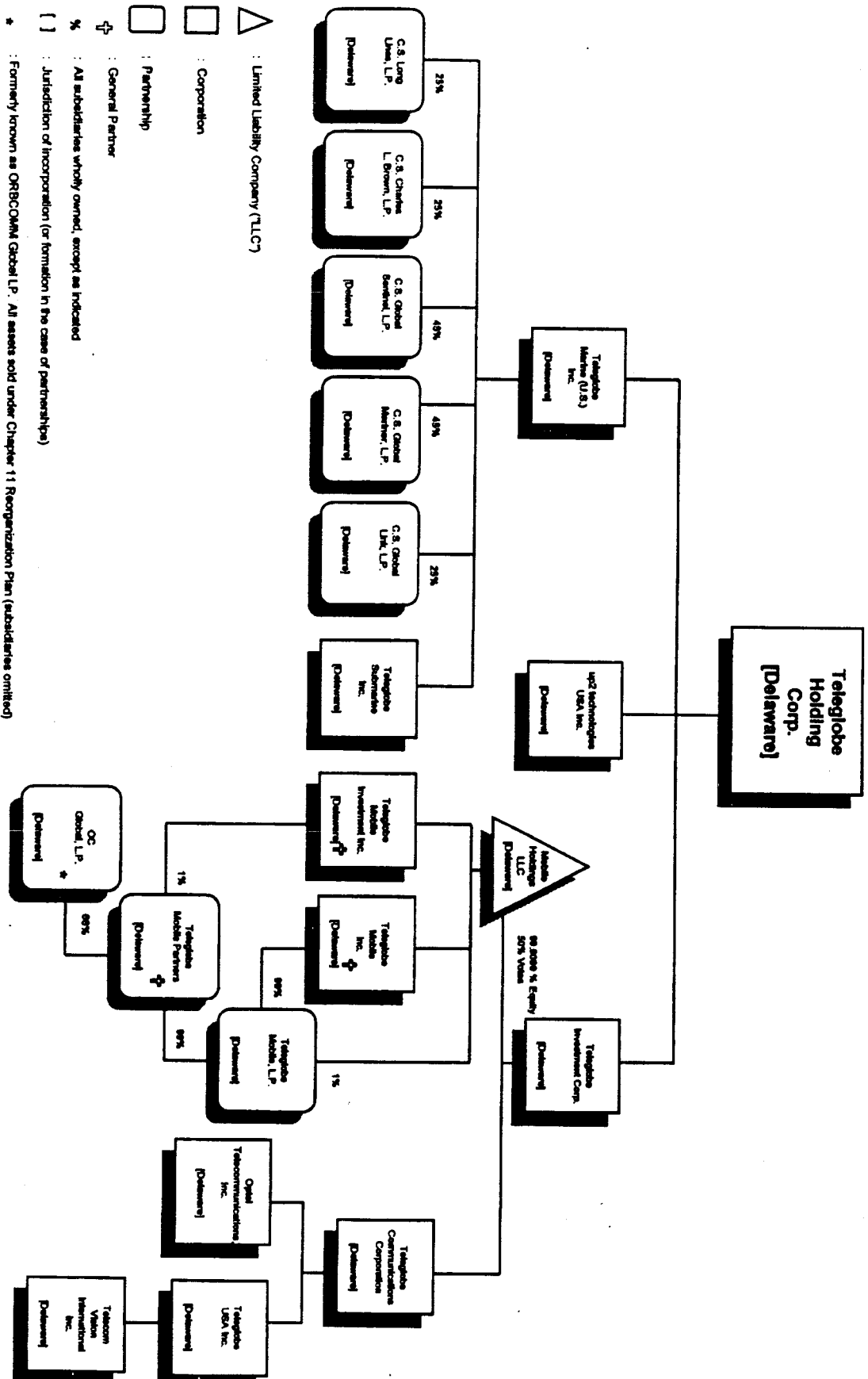
Page 2 of 4



CORPORATE STRUCTURE AS AT JUNE 30, 2001



Page 3 of 4



CORPORATE STRUCTURE AS AT JUNE 30, 2001



Page 4 of 4

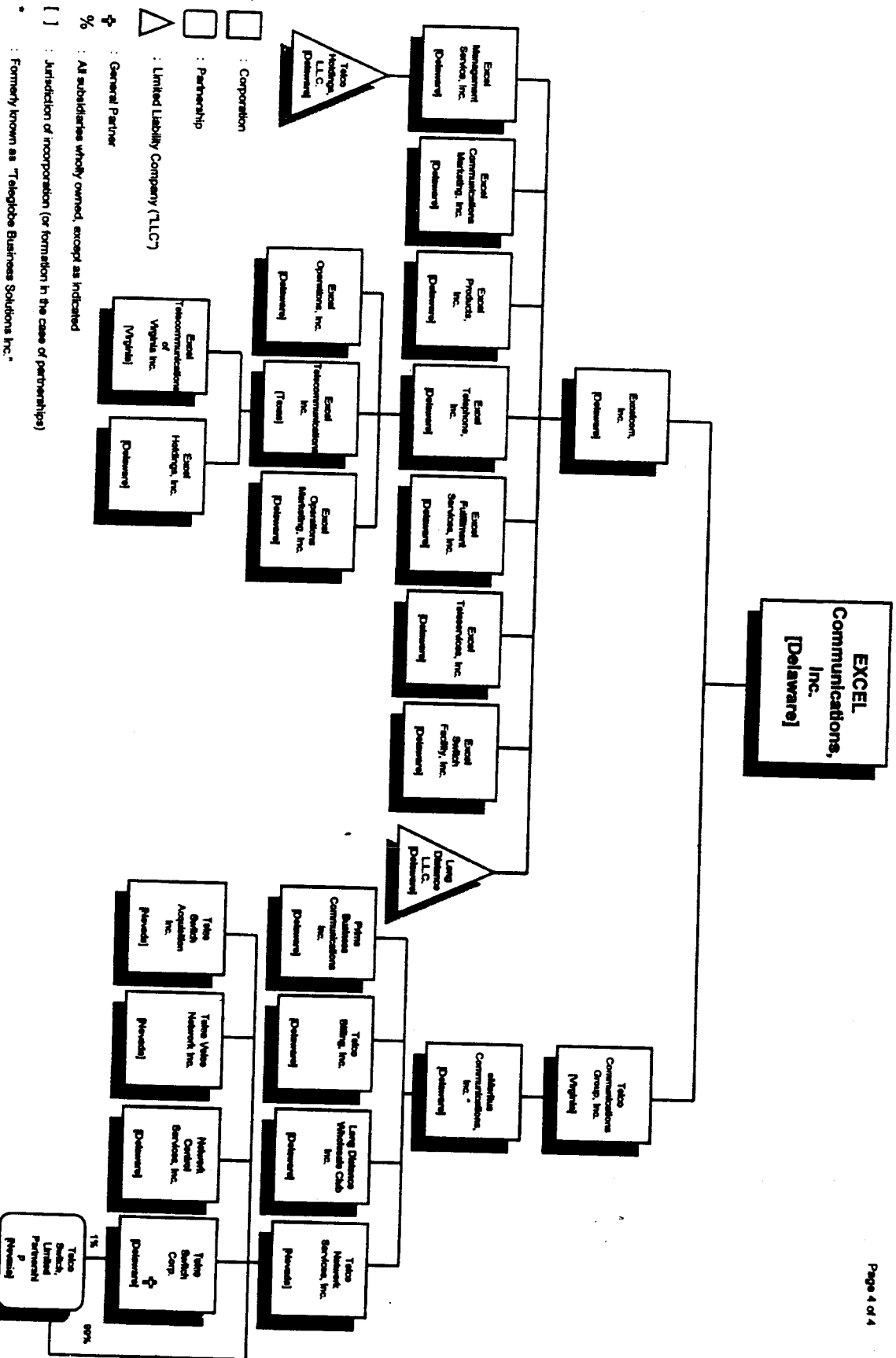


Exhibit B

ORGANIZATIONAL CHART OF
VARTEC TELECOM, INC.

